

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 784 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD

Versus

K S B PUMPS LIMITED

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/04/99

ORAL JUDGEMENT

Mr.A.R.Thakkar for Mr.J.R.Nanavati for the
appellant. No one is present on behalf of the respondent
although the name of the learned Counsel has also been
shown in the hearing Board.

2. In the papers of this appeal (B.P.M.C.Act) placed
before us, there is no certified copy of the impugned
order. A simple copy was, therefore, supplied by the
learned Counsel for the appellant, and we proceed to
decide this appeal on that basis.

3. The respondent herein is a Public Limited Company, having its regional office at "Neelkamal No.1", first floor, Ashram Road. The premises has been taken on rent by the respondent on monthly rent of Rs.2,205/- from 1st August 1979 and the premises admeasures 735 sq.ft. (63.63 sq.mtrs.). The tax was to be paid directly to the Municipal Corporation. The Municipal Corporation assessed the gross rateable value under the BPMC Act with regard to the aforesaid premises at Rs.35,747/- for the year 1982-83. The objections filed by the respondent against the said assessment on 10th May 1982 were rejected by the appellate officer on 31st August 1982. Against this gross rateable value at Rs.35,747/- as assessed by the Municipal Corporation, the respondent preferred a Municipal Valuation Appeal No.2145 of 1982 in the Court of Chief Judge, Small Causes Court, Ahmedabad. This appeal had been partly allowed on 3rd February 1983 and the gross rateable value was reduced to Rs.2688/for the year 1982-83. Aggrieved from this order dated 3rd February 1983, the Municipal Corporation preferred this Civil First Appeal under Section 411 of the Bombay Provincial Municipal Corporation Act. It appears from the impugned order that, notwithstanding the contractual rent of Rs.2205/- per month, the Small Causes Court has taken into consideration the rent which had been fixed by him in some other cases as referred in paragraph 8 of the impugned order and on that basis, he has found that the monthly rent should be taken to be Rs.224/- only and accordingly the gross rateable value has been reduced to Rs.2688/-.

4. Mr.Thakkar, learned Counsel for the appellant Municipal Corporation has submitted that the decision in M.V. Appeals Nos.1707 of 1980 and 2920 of 1981 were challenged before this Court and such decision dated 15th December 1982 has already been set aside by this Court. It is, therefore, clear that the impugned order has been passed on the basis of the orders passed by the Small Causes Court in other identical matters as aforesaid and such orders have already been set aside by this Court. It is, therefore, clear that the impugned order cannot be sustained in the eye of law as it is passed on those orders which have been subsequently set aside by this Court. Even otherwise, there is no justification with the Small Causes Court to take the monthly rent as Rs.224/- only inspite of the contractual rent of Rs.2,205/- per month and there was no material to hold that with regard to the premises which is situated at such a prime location, the contractual rent of Rs.2,205/was excessive. The impugned order, therefore, deserves to be set aside.

5. Accordingly, this appeal succeeds. The impugned order dated 3rd February 1983 is hereby set aside and the assessment made by the Municipal Corporation of the City of Ahmedabad, stands restored. No order as to costs.

sreeram.